

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JOSEPH ELAM,

Petitioner,

v.

TIMOTHY DOUMA,

Respondent.

ORDER

Case No. 13-cv-880-bbc

Petitioner Joseph Elam is currently in custody of the Wisconsin Department of Corrections at the New Lisbon Correctional Institution. He has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254, challenging the calculation of his sentence. He has neither paid the \$5 filing fee nor requested leave to proceed *in forma pauperis* in this habeas proceeding. For this case to move forward, petitioner must pay the \$5 filing fee or submit a properly supported motion for leave to proceed *in forma pauperis* no later than February 10, 2014.

In the event that petitioner requests leave to proceed *in forma pauperis*, he must submit a trust fund account statement for the six-month period immediately preceding the filing of his habeas corpus petition. See 28 U.S.C. § 1915(a)(2); *Longbehn v. United States*, 169 F.3d 1082 (7th Cir. 1999). The federal *in forma pauperis* statute does not permit a court to waive a prisoner's entire obligation to pay filing fees, but it does allow a qualifying individual to proceed without prepaying some or all of the filing fee. To determine whether petitioner qualifies as indigent, any motion for leave to proceed *in forma pauperis* must include a certified copy of his inmate trust fund account statement (or institutional equivalent) for the six-

month period beginning approximately June 30, 2013, through the date of his petition, December 30, 2013.

If petitioner does not submit either the \$5 payment or a motion for leave to proceed *in forma pauperis* before February 10, 2014, the court will assume that he wishes to withdraw this action voluntarily and will dismiss the petition without further notice under Fed. R. Civ. P. 41(a).

ORDER

IT IS ORDERED that:

1. No later than February 10, 2014 Joseph Elam shall pay the \$5 filing fee or submit a properly supported motion for leave to proceed *in forma pauperis* together with a certified copy of his inmate trust fund account statement for the six-month period from the date of the habeas petition (December 30, 2013 through at least June 30, 2013).
2. **Petitioner is advised that, if he fails to comply as directed or show cause for his failure to do so, the court will assume that he does not wish to proceed and this case will be dismissed without further notice pursuant to Fed. R. Civ. P. 41(a).**

Entered this 22nd day of January, 2014.

BY THE COURT:

/s/
PETER OPPENEER
Magistrate Judge